R. A. Hatch Company *and* International Union of Operating Engineers, Local No. 701, AFL-CIO *and* Joint Council of Teamsters No. 37, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America *and* Oregon, Southern Idaho, Wyoming and Utah District Council of Laborers, Laborers International Union of North America, AFL-CIO. Cases 36-CA-3667, 36-CA-3668, and 36-CA-3669

September 20, 1982

DECISION AND ORDER

BY MEMBERS FANNING, JENKINS, AND ZIMMERMAN

On June 23, 1981, Administrative Law Judge Roger B. Holmes issued the attached Decision in this proceeding. Thereafter, Charging Party Operating Engineers and Charging Party Laborers filed exceptions and supporting briefs, and Respondent filed an answering brief.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record and the attached Decision in light of the exceptions and briefs and has decided to affirm the rulings, findings,[1] and conclusions of the Administrative Law Judge and to adopt his recommended Order.

We agree with the Administrative Law Judge's conclusion that an impasse had been reached between Respondent and the Charging Party Unions, the Operating Engineers and the Laborers,[2] over the signing of short-form memorandums of agreement that would have bound Respondent to the master labor agreement negotiated by the Unions and the local chapter of the Associated General Contractors of America (hereinafter A.G.C.). Accordingly, we further agree with the Administrative Law Judge that Respondent was free, as a result of the impasse, to implement its contract proposals unilaterally, and that Respondent's doing so on June 23, 1980,[3] did not, therefore, violate Section 8(a)(5) and (1) of the Act.

The facts, more fully set forth in the Administrative Law Judge's Decision, are as follows.

In a letter dated August 15, 1979, the A.G.C. advised the Union that Respondent had terminated its membership in that organization and that it was no longer Respondent's bargaining agent. Respondent's labor relations attorney, Bruce Bischof, mailed to the Unions a letter dated January 15 which, *inter alia*, confirmed Respondent's withdrawal from multiemployer bargaining and indicated that his office would be handling Respondent's contract negotiations. Bischof sent another letter dated February 27, which formally notified the Unions of Respondent's intent to terminate the existing labor agreement when it expired on May 31, and to reopen all of the existing contract provisions for the purpose of negotiating successor contracts. Although Respondent filed election petitions on March 6 and 7,[4] it advised the Unions through Bischof that it still wanted to negotiate, and set aside 4 weeks at the end of April and the beginning of May for doing so. The following is the text of Bischof's letter to the Unions dated April 11:

> As you are aware, you have previously received two certified letters from our offices notifying you that R. A. Hatch Co. had withdrawn all bargaining rights from the Associated General Contractors and that the employer was terminating the existing agreement upon its expiration.
>
> Inasmuch as we have heard nothing from you with respect to commencing negotiations for a successor agreement, this letter shall serve as the employer's formal request to commence negotiations as soon as possible for a successor agreement. On behalf of the employer, I am prepared to meet with your authorized bargaining representative in Bend, Oregon, during the week of April 21, April 28, May 5, and May 12. It is our intent to spend whatever time is necessary to conclude these negotiations prior to the expiration of the existing contract.

The business manager and secretary-treasurer of the Laborers, Neil P. Vermeer, responded to Bischof in a letter dated April 21, in which he indicated, in pertinent part, that Bischof's request for bargaining was premature in view of the pending representation proceedings.

[1] Charging Party Laborers has excepted, and Charging Party Operating Engineers has implicitly excepted, to certain credibility findings made by the Administrative Law Judge. It is the Board's established policy not to overrule an administrative law judge's resolutions with respect to credibility unless the clear preponderance of all of the relevant evidence convinces us that the resolutions are incorrect. *Standard Dry Wall Products, Inc.*, 91 NLRB 544 (1950), enfd. 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing his findings.

[2] No exceptions were filed with respect to the Administrative Law Judge's recommendation that the complaint, insofar as it pertained to the Charging Party Teamsters, be dismissed. Accordingly, Respondent's contracts with that labor organization will not be discussed herein.

[3] All dates herein are in 1980, unless otherwise indicated.

[4] On March 21, the Operating Engineers and the Teamsters filed unfair labor practice charges which blocked any further processing of the election petitions involving them. The Laborers, however, did not file charges and, on April 10, a Decision and Direction of Election issued. On April 28, with approval of the Regional Director, all of the petitions and charges were withdrawn.

On May 2, Bischof and Paul Hays, the attorney representing the Operating Engineers, had a telephone conversation in which Hays suggested to Bischof that "the short form would be the way to go." Bischof, on the other hand, explained that Respondent had experienced jurisdictional disputes between unions in different States and that "it was imperative that we sit down with . . . 701, and make some attempt to negotiate agreements the company can live with." Bischof made it clear to Hays that Respondent would not have retained him if it had been interested in signing short-form agreements.

In a letter dated May 12, Bischof again contacted the Operating Engineers about the commencement of individual negotiations. It read as follows:

> On April 11, 1980, our offices notified you by certified letter that we were prepared to commence bargaining on a successor agreement on behalf of R. A. Hatch Co. In this letter, I set out a number of dates which were available for the purpose of commencing bargaining.
>
> As of this date, I have heard nothing from your union with respect to agreeing to commence negotiations. Accordingly, if it is your intent to merely force the company to sign a "short form" agreement as negotiated by Associated General Contractors, please advise me and we will recognize that you do not intend to bargain. Inasmuch as we have not heard from you, it is logical to suppose this is your position as demonstrated by past bargaining history.
>
> However, we are prepared to meet with you on Thursday, May 15th at 1:00 p.m. at the offices of the R. A. Hatch Co. in Bend. We will expect to see you at that time unless you notify us of your decision not to attend in advance of this meeting.

Hays responded on May 14. He called Bischof to advise him that Jim Ridderbusch would be available to meet with him on May 15.

When Ridderbusch arrived at the May 15 meeting, he handed Bischof a copy of the Union's contract proposal, which was the same one the Union had submitted to the A.G.C. During the course of this meeting, which lasted approximately 10 minutes, Ridderbusch indicated that he did not believe the Union would be willing to enter into negotiations with a separate employer.[5] Bischof gave Ridderbusch Respondent's proposal, made it clear that Respondent would not sign a short form, and stressed the importance of reaching an agreement by May 31. Ridderbusch, according to Bischof, stated that "it would be better if the people from Portland were really over here," and that he would prefer to resume negotiations after June 1.

Although communication between Bischof and Hays continued, nobody from the Operating Engineers ever contacted Bischof, despite the assurances of Hays that somebody from the Union would do so. Therefore, Bischof gave the Union's attorney a deadline of June 19 for another meeting. On June 19, it was again Ridderbusch who appeared on the Union's behalf. This time he suggested that the meeting be postponed until negotiations on the A.G.C. contract were completed. He also explained that July 19 would be the earliest date that anyone from the Union could meet with Respondent because the two men who would actually be negotiating with Respondent were union officers who were currently involved in a reelection campaign. In addition, Ridderbusch reiterated his belief that the Union would be unwilling to sign anything but a short form, since that was its practice.

The same pattern was established with respect to the negotiations with the Laborers. Bischof called Vermeer on May 12. He protested the failure of the Laborers business manager to respond to his correspondence and noted that Respondent was particularly adamant about not binding itself to the A.G.C. contract. Vermeer advised Bischof that John Abbott would be handling the negotiations for the Laborers. Bischof called Abbott at home on May 13, explained some of Respondent's problems, indicated that a short form was out of the question, and established a meeting date of May 21. Bischof asked to receive a copy of the Union's proposal prior to the meeting, but Abbott told him he was not in a position to send one. Abbott explained, "We're engaged in A.G.C. negotiations, but I will meet with you on the 21st." Bischof mailed a copy of Respondent's proposal to Abbott on May 16. On the afternoon of May 21, Abbott called Bischof to

[5] The dissent disputes that Ridderbusch indicated to Bischof at this meeting that he "believed" that the Union would not be willing to engage in separate negotiations. Instead, the dissent characterizes Ridderbusch's comment on this key issue as one which conveyed only his lack of familiarity with the Union's position. Bischof, the record shows, explained to Ridderbusch that Respondent was "not going to sign a boilerplate A.G.C. agreement" and, although Ridderbusch said that "to his knowledge, he wasn't aware of where 701 would be willing to enter into negotiations with a separate employer," he also said that "he would sit down and negotiate with us." According to Bischof, "What he basically said was, he had no authority to bargain. But he said he'd sit there, and go through the motions." Ridderbusch's statement certainly did more than profess ignorance. Rather, it is evident from the language of the statement itself that Ridderbusch knew the Union's practice with respect to negotiating separate agreements, and, moreover, from the context in which it was made, that Ridderbusch specifically expressed his belief that the Union would not negotiate with an individual employer.

tell him that he had gotten tied up, and they agreed to meet on May 23.

On May 23, Bischof met with Abbott in what appeared to Bischof at the time to be the first indication from the Laborers that some contract other than a short form might be a possibility. On June 5, however, Abbott left word that he was going on vacation and that Vermeer would be taking over the negotiations. On June 13, Vermeer told Bischof that Abbott had never really been assigned to the negotiations, and informed him in no uncertain terms that "it was the short form or nothing." "I'm not," he said, "going to sign anything but an interim short form binding you to the A.G.C. contract." Bischof asked Vermeer to send him something in writing so that he would have something to show his client for his 4 months of work in attempting to get the Laborers to sit down at the bargaining table. Vermeer obliged, sending him a letter dated June 13 with several short forms enclosed.

Thus, despite Bischof's numerous attempts over a period of several months to get both the Operating Engineers and the Laborers to move from their dogged adherence to their short-form proposals—a position which the Unions communicated directly, as well as implicitly, by attempting to postpone any direct bargaining until they had concluded negotiations on the A.G.C. contract—Bischof still could not report any progress whatsoever in this regard by June 23. With the Operating Engineers proposing that further negotiations be delayed for at least a month and the Laborers indicating that it would be the short form or nothing, Respondent had every reason to believe that it had come to loggerheads with the Unions over the short-form issue, and that it would be incapable of resolving its differences with them in the foreseeable future.[6] Accordingly, we agree with the Administrative Law Judge that Respondent did not violate Section 8(a)(5) and (1) of the Act by unilaterally implementing its contract proposals on June 23, and, therefore, we shall adopt his recommended Order that the complaint be dismissed in its entirety.

In our view, the record belies our dissenting colleague's portrayal of Respondent as a company intent on procrastination, long on unwarranted assumptions, and eager to set the stage for unilateral action. From the outset, it was Respondent's attorney, not the Unions, who took the initiative in arranging for the parties to meet. Respondent, as previously noted, made it undisputably clear to the Unions, certainly as far back as early April, that it had no interest in signing short forms. Through Bischof, Respondent repeatedly expressed its desire to negotiate individual contracts with the Unions to succeed the master agreement which was set to expire on May 31. The Unions, on the other hand, repeatedly let Respondent know that it was unlikely that they could ever come to terms on anything other than short-form agreements. And, in sharp contrast to Respondent, neither Union ever displayed any interest in accelerating the languid pace of the negotiations, a factor militating decidedly in Respondent's favor in terms of justifying its conclusion that impasse had been reached.

Member Jenkins' dissent makes much of the fact that Respondent did not present its specific bargaining proposals to the Unions until May 15 and 16. This, plus Respondent's March filing of election petitions questioning the Unions' representative status, Member Jenkins contends, not only caused the commencement of negotiations to be delayed, but also effectively undercut Respondent's claim that it was vitally interested in negotiating successor agreements with the Unions in a timely manner. Member Jenkins also emphasizes the limited number of face-to-face bargaining sessions, noting this in support of his conclusion that no exhaustive negotiations between the parties ever occurred. What our colleague fails to mention, however, is that (1) the issue between the parties which led to impasse was not specific bargaining proposals, *per se*, but whether or not the Unions would be willing to sign individual agreements rather than simply short forms binding Respondent to the master labor agreement; (2) the short-form issue was brought to the Union's attention well before May 1980; (3) Respondent made numerous attempts to resolve the short-form issue, even during the pendency of the election petitions; and (4) by June 23, even though the parties had exchanged oral and written communications on numerous occasions over a period of several months, and meetings had been held, there was still no sign that the Unions were ready to alter their position on the short-form issue. Accordingly, Respondent was justified in concluding that it had thoroughly exhausted the prospects of reaching an agreement.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge and hereby orders that the complaint herein be, and it hereby is, dismissed in its entirety.

MEMBER JENKINS, dissenting:

In adopting the Administrative Law Judge's dismissal of the complaint's allegations that Respondent unilaterally changed terms and conditions of

[6] See *AAA Motor Lines, Inc.*, 215 NLRB 793 (1974).

employment in violation of Section 8(a)(5) and (1) of the Act, my colleagues have accepted Respondent's defense that there existed impasse in negotiations with each of the three Charging Party Unions[7] which justified these changes. However, a review of the record reveals that the impediments to collective bargaining were largely of Respondent's creation, and that, at the time Respondent lost patience with honoring its obligation to bargain, no exhaustive negotiations had occurred with the Operating Engineers or the Laborers Unions. Accordingly, Respondent's assertion of impasse is unfounded and it was not privileged to make these unilateral changes.

Although Respondent claims it was vitally interested in negotiating successor agreements with the Unions prior to the expiration of the master agreement on May 31, 1980,[8] it failed to present any bargaining proposals until May 15 and 16. Such procrastination by a respondent seeking to deviate from a previous adherence to multiemployer bargaining, where it was aware that the Unions continued to desire uniformity in bargaining by the execution of short-form agreements, obviously served to delay negotiations.[9]

Bargaining with the Operating Engineers began on May 15 when Respondent's attorney met for the first time with an Operating Engineers representative and each submitted to the other their initial proposals. At this brief meeting, lasting approximately 10 minutes, the Operating Engineers representative accepted Respondent's proposal, stated that he would review it, and noted that anything he negotiated would have to be approved by officials in Portland and that he did not know if his Union would be willing to enter into negotiations with a separate employer.[10] From these statements, which were at best ambiguous,[11] Respondent's attorney testified that he assumed that the Operating Engineers representative had no bargaining authority and he additionally assumed that there would not be any negotiations. These unwarranted assumptions, drawn after only 10 minutes of bargaining, highlight Respondent's temperament regarding collective bargaining.

The second meeting occurred on June 19. Citing a current intraunion election campaign and master contract negotiations with the multiemployer association, the Operating Engineers representative requested that bargaining be delayed for approximately a month. He also indicated that he thought the Union would be unwilling to depart from the practice of executing anything other than a short-form agreement with individual employers. Respondent's attorney testified that he understood no ultimatum was being presented regarding the short form and he replied he would let the Union's representative know if Respondent was willing to agree to the Union's request for a delay in negotiations after he conferred with his clients. On June 23, without any further communication with the Operating Engineers, Respondent sent a letter claiming that the Union had refused to meet with Respondent and announcing that Respondent was implementing the terms of its May 15 offer.

Although the Administrative Law Judge correctly cited *Taft Broadcasting Co., WDAF AM-FM TV*, 163 NLRB 475 (1967), for the standard by which bargaining impasse will justify an employer implementing the terms of a prior offer, it is manifest from the foregoing review of the facts that at no time had Respondent bargained to impasse with the Operating Engineers. As of June 23, the Operating Engineers had not rejected Respondent's proposal or refused to meet with it, Respondent had not responded to the Union's latest request for delay in negotiations, and the Union had not presented Respondent with an ultimatum to sign a short-form agreement. Although both parties had been dilatory at one time or another in proceeding with bargaining, at no time did the parties exhaust their prospects of concluding an agreement following good-faith negotiations, the standard for impasse in *Taft Broadcasting*, *id.* at 478. Rather than representing the exhaustion of negotiations, the two brief meetings of the parties served only to define the parties' initial positions from which negotiations

[7] Charging Party Joint Council of Teamsters No. 37, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, has filed no exceptions to the dismissal of the complaint as it affects them, and therefore Respondent's conduct with respect to this Union will not be further discussed.

[8] All dates are 1980 unless otherwise indicated.

[9] Respondent's delay in presenting any proposals, however, was consistent with its earlier attempt to end its bargaining relationship with the Unions through the February filing of election petitions questioning their representational status. These petitions, which were not withdrawn until late April, understandably distracted the Unions from doing anything other than defending their status as bargaining representatives, to the detriment of any bargaining which otherwise may have occurred during this period.

[10] The majority overstates the record in finding that the Operating Engineers representative admitted in this conversation that he "didn't believe" his Union would engage in separate negotiations. Specifically, Bischof testified being told that the representative "wasn't aware of" the Union's position on this matter. Bischof's further testimony set forth in fn. 5 of the majority's Decision, regarding what the Operating Engineers representative "basically said," is patently Bischof's interpretation of the representative's comments, not the latter's actual words.

[11] It is not unlawful for a union to seek to negotiate uniform terms for employees represented in different bargaining units. See *United Mine Workers of America* v. *Pennington*, 381 U.S. 657, 665 (1965). Likewise, it is not itself unlawful for a union to negotiate an agreement subject to the approval of a higher governing body, particularly where this is clearly understood by the parties. See *The Standard Oil Company*, 137 NLRB 690 (1962); *Brotherhood of Painters, Decorators and Paperhangers of America, Local 850, AFL-CIO (Morgantown Glass and Mirror, Inc.)*, 177 NLRB 155 (1969).

should have continued.[12] Indeed, even had the Operating Engineers rejected Respondent's proposal, this would not have created an impasse.[13] Thus, in view of Respondent's prior history of adhering to multiemployer negotiations, the parties' shared responsibility in the delay of negotiations, the brief duration of the two meetings, and Respondent's agreement on June 19 that it would consider and respond to the Operating Engineers' request for a further delay in negotiations, all factors relevant to impasse,[14] Respondent has not shown that further negotiations would have been futile. Rather, by drawing the unwarranted assumption at the first meeting that there would be no negotiations and then by prematurely terminating negotiations following the second meeting, Respondent has given negotiations no chance to succeed. The majority fails to recognize the importance of Bischof's admission that as of June 19 the Operating Engineers had not given him an ultimatum to sign a short-form agreement. Nevertheless, the majority acknowledges that the Operating Engineers only indicated it was *unlikely* they would depart from the short form. This finding, however, shows that bargaining prospects had not yet been exhausted. Absent such exhaustion, no impasse exists. In this context, I find that Respondent's unilateral implementation of its contract proposals violated Section 8(a)(5) and (1) of the Act.

Respondent's bargaining history with the Laborers Union parallels events with the Operating Engineers in many respects. In February, Respondent filed an election petition challenging the representational status of the Laborers Union, did not withdraw it until late April, and thereby impeded negotiations during this period. Although Respondent was aware that the Laborers also wanted Respondent to sign a short-form contract, Respondent delayed submitting any proposals until May 16 (2 weeks prior to the expiration of the master contract), when it mailed copies of its proposals to this Union. At the only face-to-face meeting between Respondent and the Laborers, the union representative met with Respondent on May 23, discussed Respondent's proposal, and the union representative stated that Respondent's proposals would be considered and that he would get back to Respondent. To this extent negotiations with the Laborers were not essentially different from those involving the Operating Engineers.

The only distinguishing feature regarding negotiations with the Laborers was that, in early June, Respondent learned that the Union's negotiator apparently had insufficient bargaining authority, had departed on a vacation, and that another agent was assigned responsibility for negotiations. On June 13, in a telephone conversation with this agent, Respondent was informed that the Laborers was not prepared to do anything but sign an interim short-form agreement pending master contract negotiations and that "it was the short form or nothing." However, this single statement by the Laborers agent is no more than an opening gambit or a preliminary sparring match[15] and absent further meetings between the Union and Respondent did not by itself preclude further meaningful negotiations. It can hardly be argued that the parties have made their best efforts to achieve an agreement and that the collective-bargaining process has been exhausted. Accordingly, Respondent also violated Section 8(a)(5) and (1) of the Act on June 23 by implementing its earlier contract proposals without engaging in further negotiations with or providing notice to the Laborers Union. Respondent's unlawful conduct is further shown by its treatment of the Laborers exactly as it had treated the Operating Engineers, and its corresponding impatience with negotiations past the stage of establishing initial bargaining positions. I dissent, and would find the violations of the Act.

[12] The fact that the initial proposals of the Operating Engineers and Respondent differed sharply is not an excuse to declare impasse. On the contrary, this is precisely the reason why the National Labor Relations Act imposes on the parties a duty to bargain in good faith, despite any urge to lose patience at an early stage. As stated by the court enforcing our Decision in *Taft Broadcasting, supra*:

> It is indeed a fundamental tenet of the act that even parties who seem to be in implacable conflict may, by meeting and discussion, forge first small links and then strong bonds of agreement. [*American Federation of Television and Radio Artists, AFL-CIO, Kansas City Local* v. *N.L.R.B.*, 395 F.2d 622, 628 (D.C. Cir. 1968.]

[13] See *Inta-Roto, Incorporated*, 252 NLRB 764, 768 (1980), where the Board adopted the statement that "an impasse is not reached by the mere exchange and rejection of proposals."

[14] See *Taft Broadcasting, supra* at 478.

[15] See *Blue Grass Provision Co., Inc.* v. *N.L.R.B.*, 636 F.2d 1127, 1136 (6th Cir. 1980), enfg. 238 NLRB 910 (1978).

DECISION

STATEMENT OF THE CASE

ROGER B. HOLMES, Administrative Law Judge: The unfair labor practice charge in Case 36-CA-3667 was filed on July 1, 1980, and was amended on August 20, 1980, by International Union of Operating Engineers, Local No. 701, AFL-CIO. The unfair labor practice charge in Case 36-CA-3668 was filed on July 1, 1980, and was amended on August 20, 1980, by Joint Council of Teamsters No. 37, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America. The unfair labor practice charge in Case 36-CA-3669 was filed on July 2, 1980, by Oregon, Southern Idaho, Wyoming and Utah District Council of Laborers, Laborers International Union of North America, AFL-CIO.

The General Counsel issued a consolidated complaint on August 27, 1980, alleging violations of Section 8(a)(1) and (5) of the Act by R. A. Hatch Company, the Respondent herein.

The hearing was held on February 3, 4, 24, and 25, 1981, at Portland, Oregon. The time for filing post-hearing briefs was set for April 1, 1981.

FINDINGS OF FACT

A. *The Employer and the Unions*

The Board's jurisdiction is not in issue in this proceeding. The Employer is a contractor in the construction industry, primarily engaged in the construction of roads and highways, and it meets the Board's indirect outflow jurisdictional standard.

The status of all three of the Charging Parties as labor organizations within the meaning of the Act was admitted.

B. *The Witnesses*

Nine persons were called as witnesses at the hearing of this proceeding. In alphabetical order by their last names, the witnesses are: John Abbott, who is the president and the assistant business manager of the Charging Party Laborers; Bruce Paul Bischof, who is one of the attorneys for the Respondent, and who has been engaged in the private practice of law since 1973 with his practice basically involving labor relations on behalf of management; Robert A. Hatch, who is the president and the principal stockholder of the Respondent; Paul Hays, who is an attorney in the law firm of Carney, Probst & Cornelius, which firm represents the Charging Party Teamsters and formerly represented the Charging Party Operating Engineers from December 1976 to the fall of 1980; Gerald Bryce Johnston, who is the vice president and the controller of the Respondent; Walt LaChapelle, who is a representative of the Charging Party Teamsters; Jim Ridderbusch, who is a field representative of the Charging Party Operating Engineers; Margaret Vandemarr, who has been a switchboard operator, receptionist, and bookkeeper for the Teamsters Building Association for the past 15 years; and Neil P. Vermeer, who is the business manager and the secretary-treasurer of the Charging Party Laborers.

Considering the passage of time between the occurrence of the events which are relevant herein and the time the witnesses gave their testimony, it is understandable that the witnesses recalled differently some matters bearing on the issues in these cases. In addition, consideration has been given to the fact that each witness was identified with one of the parties to the proceeding, and, therefore, the witness viewed these matters as they occurred from his own perspective and from his responsible position with that particular party. That fact may have resulted in the differences in recollection when these events subsequently were retold on the witness stand. There were no truly disinterested witnesses who lacked any interest in the outcome of this proceeding. That is not said in any critical way of the witnesses. It is just one observation because, in a case like this, the events in question would be expected to involve attorneys, officers, representatives, and employees of the various parties. Thus, consideration has been given to those factors, as well as other factors, in weighing and evaluating the testimony and in attempting to comprehend the differences in the testimony about certain events. Other factors used in arriving at credibility determinations in this case have included the demeanor of the witnesses while on the stand; the demonstrated ability of the witness to recall facts; the corroboration of testimony by other witnesses; and the support for testimony found in any documentary evidence introduced by the parties at the hearing.

After considering all of the foregoing matters, I have decided to rely upon the accounts given by Bischof in making many of the findings of fact to be set forth herein. He showed on the witness stand that he had a good and detailed recollection of the numerous events about which he testified. His testimony is supported in some parts by documentary evidence, and in some parts by the testimony of Johnston and Hatch, whose testimony also is credited. In accepting Bischof's testimony, I have considered Charging Party Laborers' Exhibit 4 regarding his legal fees billed to the Respondent, and I have also considered Respondent's Exhibit 25 regarding the Respondent's statement of position given to field examiner Mary Nelson of Subregion 36 of the Board. In particular, with regard to Respondent's Exhibit 25, the circumstances under which that letter dated July 18, 1980, was prepared should be considered in fairness to the witness.

Many findings of fact to be made herein will be based upon documentary evidence. In particular, correspondence between the parties shows the written communications which were exchanged by the parties at the relevant times. There were, of course, verbal communications by telephone and in person at meetings. Those will be described also. Several witnesses related numerous unsuccessful attempts to contact the representatives of another party by telephone. There was also some documentary evidence on that subject. For one example, see General Counsel's Exhibit 16, which was introduced through Vandemarr, and for another example, see Respondent's Exhibit 20, which was introduced through Bischof. Rather than relate all of the unsuccessful attempts by one person to contact another person by telephone, I will focus upon the contacts which were actually made and the resulting conversations in making the findings of fact. At the outset, I find to be credible the witnesses' testimony and the documentary evidence that there were numerous unsuccessful attempts by one of the parties to contact one of the other parties during the relevant times by telephone, both long distance and local calls, and both station-to-station and person-to-person calls. While I find all such evidence to be believable, I find it to be more significant to set forth the written and verbal communications which actually took place between the parties. That is not said in any way critical of the parties for introducing such evidence regarding unsuccessful telephone attempts in light of the fact that one of the several issues raised by the pleadings was whether "Respondent was dilatory in failure to return telephone calls."

C. *Certain Facts Admitted To Be True in the Pleadings*

In addition to the facts described above there were certain others which were admitted to be true in the pleadings. For convenience, I will set forth those facts below according to the numerical designation they were given in the General Counsel's consolidated complaint:

4.

(a) The following employees of Respondent in Case 36-CA-3667 constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

> All employees of R. A. Hatch Co. engaged in the operation of heavy construction equipment in the State of Oregon and 5-1/2 counties of S. W. Washington as described in the contract between Oregon-Columbia Chapter, Associated General Contractors of America, Inc., (herein A.G.C.) and the Engineers effective from June 1, 1975 to May 31, 1980, but excluding all other employees, office clerical employees, confidential employees, professional employees, guards and supervisors as defined in the Act.

(b) The following employees of Respondent in Case 36-CA-3668 constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

> All drivers, helpers, mechanics and warehousemen of R. A. Hatch Co. in the State of Oregon and 5-1/2 counties of S. W. Washington as described in the contract between A.G.C. and the Teamsters effective from June 1, 1975 to May 31, 1980, but excluding all other employees, office clerical employees, confidential employees, professional employees, guards and supervisors as defined in the Act.

(c) The following employees of Respondent in Case 36-CA-3669 constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

> All employees of R. A. Hatch Co. in the State of Oregon and 5-1/2 counties of S. W. Washington engaged in general labor as described in the contract between A.G.C. and the Laborers effective from June 1, 1975, to May 31, 1980, but excluding all other employees, office clerical employees, confidential employees, professional employees, guards and supervisors as defined in the Act.

5.

(a) Since 1972 Respondent, and its predecessor, White Construction, has recognized Engineers as the exclusive representative for the purpose of collective bargaining of all its employees in the unit described in paragraph 5(a) above; and at all times since 1972, Engineers, within the meaning of Section 9(a) of the Act, has been, and is, the exclusive representative of said employees, for the purpose of collective bargaining with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment.

(b) Since 1972 Respondent, and its predecessor, White Construction, has recognized Teamsters as the exclusive representative for the purpose of collective bargaining of all its employees in the unit described in paragraph 5(b) above; and at all times since 1972, Teamsters, within the meaning of Section 9(a) of the Act, has been, and is, the exclusive representative of said employees, for the purpose of collective bargaining with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment.

(c) Since 1972 Respondent, and its predecessor, White Construction, has recognized Laborers as the exclusive representative for the purpose of collective bargaining of all its employees in the unit described in paragraph 5(c) above; and at all times since 1972, Laborers, within the meaning of Section 9(a) of the Act, has been, and is, the exclusive bargaining representative of said employees, for the purpose of collective bargaining with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment.

6.

(a) Respondent, by virtue of its membership in and delegation of bargaining authority to A.G.C., was a party to A.G.C.'s collective bargaining agreement with Unions from June 1, 1975 until May 31, 1980.

(b) On or about August 15, 1979, Respondent resigned from A.G.C. thereby withdrawing its collective bargaining authority from that organization.

(c) On or about January 15, 1980, Respondent notified Unions of its withdrawal from A.G.C.

(d) Respondent, in February 1980, opened the labor agreement referred to above in subparagraph (a).

(e) On March 6 and 7, Respondent filed petitions with the Board in Case 36-RM-989 (Engineers), 36-RM-990 (Teamsters), and 36-RM-992 (Laborers). Blocking charges were filed in Cases 36-CA-3614 (Engineers) and 36-CA-3615 (Teamsters) on March 21, 1980. On April 10, 1980, a Decision and Direction of Election issued in 36-RM-992. Finally, on April 28, 1980, all of the above charges and petitions were withdrawn with approval of the undersigned. [i.e., the Regional Director of Region 19 of the Board.]

(f) After the withdrawal of the charges and petitions indicated above, Respondent agreed to bargain with Unions.

* * * * *

(i) Laborers and Respondent met briefly on May 23, 1980, without agreeing to any substantive terms of a new agreement.

In connection with the facts admitted in paragraph 6(b) from the General Counsel's consolidated complaint, which is quoted above, see General Counsel's Exhibits 2(a), (b), and (c). Those documents are copies of letters dated August 15, 1979, from the A.G.C. to each one of the Charging Parties. The letters notified the Charging Parties that the A.G.C. was no longer the bargaining agent for the Respondent.

In connection with the facts admitted in paragraph 6(c) from the General Counsel's consolidated complaint, which is quoted above, see General Counsel's Exhibits 3(a), (b), and (c). Those documents are copies of letters dated January 15, 1980, from Bischof to each one of the Charging Parties. The letters advised, *inter alia*, that the Respondent had retained Bischof for the purpose of representing the employer in labor relations matters, and the letters requested copies of any agreements between the Respondent and the Unions involved.

In connection with the facts admitted in paragraph 6(d) from the General Counsel's consolidated complaint, which is quoted above, see General Counsel's Exhibits 4(a), (b), and (c). Those documents are copies of letters dated February 27, 1980, from Bischof to each one of the Charging Parties. The letters gave notice of Respondent's intention to terminate the existing collective-bargaining agreements at their termination dates, and the letters advised of the Respondent's intention to reopen all of the existing contract provisions for negotiations.

In connection with the facts admitted in paragraph 6(c) from the General Counsel's consolidated complaint, which is quoted above, see Charging Party Laborers' Exhibit 5, which is a copy of a Decision and Direction of Election issued on April 10, 1980, in Case 36-RM-992 by the Acting Regional Director of Region 19 of the Board. The representation case was withdrawn prior to the holding of an election.

D. *The Meetings in December 1979 and February 1980*

The Respondent holds meetings annually with its supervisors where problems, including labor relations matters, are discussed. Such a meeting was held in December 1979. The meeting lasted all day; various topics were discussed, and certain persons spoke to the group during the day. One of the speakers was the Respondent's attorney Bischof.

About 15 to 20 persons were present in the meeting room during the 30 minutes that Bischof was present. He answered questions from five or six persons as to what was going to happen as a result of the Respondent's withdrawal from the A.G.C. Bischof indicated that the Respondent would be commencing negotiations shortly to resolve a number of problems which the Respondent had been experiencing. Bischof expressed the hope that there would be new contracts agreed to before May 31, 1980. He stated that the number one priority was to ensure that there would be no work stoppages. Bischof then departed before the discussion of other topics resumed.

Another speaker at the December 1979 meeting was a representative of the State Accident Insurance Fund who discussed how to handle and how to report job-related injuries. Another person from the Respondent's liability insurance carrier spoke regarding how to handle accidents on the job or a car accident. A representative of Respondent's health insurance carrier, O.P.S. Blue Shield, explained the benefits and the coverage limits of the Respondent's health insurance policy.

In late February 1980, Bischof met with two or three of the Respondent's employees near Interstate 5 south of Salem, Oregon. The meeting was held at the request of the employees and after their working hours were over that day. Bischof's purpose was "To advise them what their rights were in terms of seeking an election." Bischof had earlier given the telephone number of the NLRB Subregional Office in Portland, Oregon, to Johnston and other supervisors so that they could give that telephone number to employees if they had any questions. However, the two or three employees of the Respondent who contacted Bischof informed him that they did not understand the petition forms, and they did not want to drive to Portland, so they asked Bischof to meet with them to find out what their rights were.

E. *The Events Pertaining to the Respondent and the Operating Engineers*

Because attorney Hays represented both the Charging Party Operating Engineers and the Charging Party Teamsters at the times related herein, some of the findings of fact to be made in this section regarding the Operating Engineers also have applicability to section 6 regarding the events pertaining to the Respondent and the Teamsters. Also, some documentary evidence to be related herein pertains to more than one section of this Decision. To avoid unnecessary repetition, some of the findings of fact made in this section should also be considered when reading the later sections of this Decision.

Introduced into evidence as Respondent's Exhibit 11 was a copy of a letter dated January 23, 1980, from George Campbell, field representative of the Operating Engineers, to attorney Bischof. That letter was sent in reply to Bischof's letter dated January 15, 1980, which was introduced into evidence as General Counsel's Exhibit 3(a). (See sec. 3 herein regarding G.C. Exh. 3(a).) Introduced into evidence as Respondent's Exhibit 10 was a copy of a letter dated March 11, 1980, from Charlie Gilbert, business manager and financial secretary of the Operating Engineers, to Bischof. That letter was sent in reply to Bischof's letter dated February 27, 1980, which was introduced into evidence as General Counsel Exhibit 4(a). (See sec. 3 herein regarding G.C. Exh. 4(a).) Both Respondent's Exhibits 10 and 11 forwarded copies of the then-current collective-bargaining agreement between the Respondent and the Operating Engineers.

General Counsel's Exhibits 5(a), (b), and (c) are copies of letters dated April 11, 1980, from Bischof to each one of the three Charging Parties in this proceeding. Bischof requested in his letters that negotiations commence for

new collective-bargaining agreements. He stated that he was prepared to meet with the Unions' authorized bargaining representatives in Bend, Oregon, during the weeks of April 21, April 28, May 5, and May 12, 1980. He also stated in each letter, "It is our intent to spend whatever time is necessary to conclude these negotiations prior to the expiration of the existing contract."

Charging Party Operating Engineers' Exhibit 1 is a copy of a letter dated April 24, 1980, from Bischof to Hays, as the attorney for both the Operating Engineers and the Teamsters, regarding the proposed withdrawal of the representation petitions by the Respondent in return for the withdrawal of the unfair labor practice charges by the two Unions. (See sec. 3 herein and particularly par. 6(e) from the General Counsel's consolidated complaint which is quoted therein.) In his letter Bischof also stated, "Finally, I will be prepared to sit down on behalf of the employer as soon as possible for the purpose of reaching a new contract for both Local 701 and the Teamsters."

On May 2, 1980, there was a telephone conversation between Bischof and Hays. Bischof had initiated that call. Bischof told Hays that the Respondent had encountered problems with jurisdictional disputes between unions in different States. Bischof said, ". . . it was imperative that we sit down with the Teamsters, and 701, and make some attempt to negotiate agreements the company can live with." Hays responded that the Teamsters would be doing their own bargaining, and that someone from the Operating Engineers also would be doing the bargaining with the Company. According to Bischof, Hays suggested to Bischof that ". . . the short form would be the way to go." Bischof replied that the Respondent had retained him to negotiate agreements with which the Company could live, and, if the Respondent had just wanted to sign short forms, there would have been no need for the Respondent to retain Bischof.

During their telephone conversation, Bischof indicated to Hays that the Respondent's "most critical problems" were with the Laborers. While Bischof also said that the Respondent had problems with the Operating Engineers and the Teamsters, Bischof expressed the view that ". . . those problems could probably be worked out." Because of the Davis-Bacon Act, Bischof said that money was not a problem for the Respondent because the Company was going to pay the same amount of money whether the Respondent signed the A.G.C. agreement or negotiated its own agreement with the Unions. Bischof testified, "So economics were not the problem; it was working conditions."

Introduced into evidence as General Counsel's Exhibits 7(a) and (b) were copies of letters dated May 12, 1980, from Bischof to the Operating Engineers and the Teamsters. In pertinent part, the letters stated:

> On April 11, 1980, our offices notified you by certified letter that we were prepared to commence bargaining on a successor agreement on behalf of R. A. Hatch Co. In this letter, I set out a number of dates which were available for the purpose of commencing bargaining.
>
> As of this date, I have heard nothing from your union with respect to agreeing to commence negotiations. Accordingly, if it is your intent to merely force the company to sign a "short form" agreement as negotiated by Associated General Contractors, please advise me and we will recognize that you do not intend to bargain. Inasmuch as we have not heard from you, it is logical to suppose this is your position as demonstrated by past bargaining history.
>
> However, we are prepared to meet with you on Thursday, May 15th at 1:00 p.m. at the offices of the R. A. Hatch Co. in Bend. We will expect to see you at that time unless you notify us of your decision not to attend in advance of this meeting.

On May 14, 1980, Hays telephoned Bischof and informed him that Jim Ridderbusch would meet with Bischof on May 15, 1980, at Bend, Oregon. Hays also said that the Teamsters was very concerned, but that they could not meet on May 15. Hays said that someone from the Teamsters would contact Bischof later that week.

On May 15, 1980, Ridderbusch met with Bischof and Johnston. Ridderbusch brought with him a document which was introduced at the hearing as Respondent's Exhibit 5. That document had a cover letter on it, and that cover letter was introduced as General Counsel's Exhibit 17(a). Ridderbusch informed the Respondent's representatives that Respondent's Exhibit 5 was the same proposal which the Operating Engineers had given to the A.G.C. Bischof testified:

> The meeting was scheduled for 1 o'clock. To the best of my recollection, Mr. Johnston and I were at the meeting. I think Bob Hatch had indicated, or told me, that he had gone to high school with Mr. Ridderbusch, and thought he would be there to introduce himself, say hello to him—this type of thing.
>
> Mr. Ridderbusch came in. We sat down. He indicated he had just come from the bus depot—he'd picked up the union's proposal. He obviously had run over to try to make this meeting. He was carrying it with him, and I think one of the first things he said was, I feel like a messenger boy. I've just picked up the union's proposal from the bus station, and I'm bringing it to the meeting.
>
> So we had probably a ten-minute conversation with Mr. Ridderbusch. Mr. Ridderbusch, obviously, was trying to work with the company. I think he was—well, I won't draw any conclusions. He asked then, at that time, if we would wait to commence negotiating until after the first of June.

At the meeting, Bischof gave the Respondent's proposal for a contract to Ridderbusch. (See Resp. Exh. 9.) Bischof told him ". . . that it was imperative we start to negotiate, and try to determine where we were prior to the expiration date of our existing agreement." Bischof then mentioned the problems the Respondent had concerning jurisdictional disputes "between different unions in different states," and the fact that Bischof had represented

other contractors in central Oregon over the years, and he had been in litigation concerning these same types of A.G.C. agreements. Bischof reiterated his view ". . . that it was imperative we determine where we were prior to the expiration date of that contract." Bischof further testified:

> He said he'd really like to wait until after June 1 in order to resume negotiations. I asked Mr. Ridderbusch—point-blank—I said, do you have the authority to sit down and negotiate an agreement for R. A. Hatch? And he said, well, I have the authority to meet with you. But anything that I negotiate, basically, would all have to go back to Portland. And it would be better if the people from Portland were really over here.
>
> He indicated to me—by the terminology of "messenger boy"—he had obviously not read the proposal that he gave us—whether it's Government Counsel 17(b), or R-5—he hadn't seen it, and it was clear he was not prepared to sit down and negotiate.
>
> So, with that, we indicated whoever he could bring over to meet with us—who did have the authority to bargain—give us a call, and we'd schedule some meetings. That meeting lasted about 10 or 12 minutes.

It was agreed that Ridderbusch would review the Respondent's contract proposal, and Bischof would review the Operating Engineers' proposal. However, Bischof stated ". . . we made it clear, we were not going to sign a boilerplate A.G.C. agreement." Bischof also testified:

> He said, to his knowledge, he wasn't aware of where 701 would be willing to enter into negotiations with a separate employer, although Mr. Ridderbusch said that he would sit down and negotiate with us. He did make that representation. What he basically said was, he had no authority to bargain. But he said he'd sit there, and go through the motions. That's basically what he said.
>
> With that kind of statement, we just assumed there was not going to be any negotiations with 701. That was the first meeting.

Ridderbusch and Bischof exchanged their home telephone numbers, and Ridderbusch said that he would talk to the people in Portland (Russell and Campbell), and then contact Bischof. Ridderbusch said that Russell and Campbell were tied up in A.G.C. negotiations at that time.

Notes made by Bischof of the foregoing meeting were introduced into evidence as Respondent's Exhibit 23.

After the meeting on May 15, 1980, Bischof had a series of telephone calls with Hays. Bischof informed Hays that Bischof had not been contacted again by the Operating Engineers, and Bischof set another deadline of June 19, 1980, for a meeting. Hays assured Bischof that he would have Ridderbusch or somebody there to meet with Bischof on that date.

On June 19, 1980, there was a second meeting among Ridderbusch, Bischof, and Johnston at the Respondent's offices. Ridderbusch said that he would appreciate it if they would not meet that day, but that he would be willing to meet with them after the A.G.C. contract had been negotiated. Ridderbusch said that July 19 was the earliest date the Union could meet with them. Bischof inquired as to why the July 19 date was given. Ridderbusch explained that the whole slate of officers of the Operating Engineers was up for reelection, and that the negotiating team consisted basically of Russell and Campbell, who would not be available until after July 19. He said those two persons would be the ones representing the Operating Engineers in negotiations with the Respondent. Bischof also testified:

> Well, he indicated that he thought the Union 701 would be unwilling to sign anything other than a short form. That was the practice. But he did not state that that was an ultimatum, that it would be the short form or nothing else. He basically said they would not be able to commence bargaining until after July 19.
>
> * * * * *
>
> We indicated to him—of course, again, it was a short meeting—you know, that I didn't think we were prepared to go ahead and just indefinitely wait until the union elections were over, until the A.G.C. agreements had been negotiated. But I said, I will confer with my clients. We'll get back to you, and I'll let you know whether or not we're willing to go ahead, and—per your request—just wait indefinitely, or whether or not we're going to take some action. This was on the 18th. [Actually, June 19.]
>
> I think I called. I had his home phone number. He indicated to me his mother was in the Bend Hospital. I called two times, I think on Monday the 21st or 22nd—was unable to reach him, so I wrote the letter that day that went to 701, that indicated that we were unilaterally implementing our offer that we had given to 701 in May.

Notes made by Bischof of the foregoing meeting were introduced into evidence as Respondent's Exhibit 22.

F. *The Events Pertaining to the Respondent and the Teamsters*

As indicated in section E herein, some of the findings of fact made in that section should be borne in mind in reading this section. Since attorney Hays was representing both the Charging Party Operating Engineers and the Charging Party Teamsters at the times related herein, some of the facts pertain to both sections. Furthermore, as previously indicated, Bischof sent similar letters on occasion to more than one of the Charging Parties. Thus, the documentary evidence previously referred to in section C and section E should be considered also, where it is applicable to more than one of the Charging Parties.

With regard to his conversations with Hays concerning the Teamsters, Bischof said that Hays made it clear that he personally would not be handling the negotia-

tions for the Teamsters. However, Bischof stated that Hays assured him that Hays would have someone from the Teamsters contact Bischof. Bischof recalled that he asked Hays when a Teamsters official could meet with him. According to Bischof, Hays explained that the Teamsters were "tied up in the beer strike;" tied up in A.G.C. negotiations, and that one of the negotiators was out of the State. In one of their subsequent conversations, Bischof informed Hays that no one from the Teamsters had contacted him. According to Bischof, Hays said, ". . . you mean, nobody from the Teamsters has called you yet, Bruce? And I said, that's right, Paul." Bischof testified at the hearing that prior to June 23, 1980, he had no contact with anyone from the Teamsters with the exception of attorney Hays.

Introduced into evidence as Respondent's Exhibit 1 was a copy of a letter dated May 14, 1980, from Hays to Bill Diltz, contract coordinator for the Charging Party Teamsters. In pertinent part, the letter states:

> As we discussed on the phone, the NLRB case regarding Hatch Construction Company is settled. The Company has withdrawn its petition for an election and I have withdrawn the unfair labor practice charge against them.
>
> The net result of this maneuvering is that the Teamsters still represent those drivers employed by Hatch and Hatch is bound to negotiate regarding a new labor agreement with the Teamsters.
>
> At one point, the attorney for Hatch, Bruce Bischof, had indicated that Hatch might be interested in a short form AGC agreement. I discussed this matter with Bischof yesterday and he indicated that Hatch wants to sit down and negotiate a new agreement rather than simply sign a short form.
>
> It appears from my discussion with Bischof that Hatch wants more freedom to switch his employees between craft jurisdictions.
>
> Please contact me when you return to town and we will discuss more fully what Bischof has in mind regarding negotiations.

Introduced into evidence as General Counsel's Exhibit 8 was a copy of a letter dated May 15, 1980, from Hays to Bischof. The letter has reference to their telephone conversation on that same date. In pertinent part, it states:

> I am writing this letter to confirm our telephone conversation of May 15, 1980.
>
> As you will recall, my telephone call to you was prompted by a letter received by the Joint Council of Teamsters No. 37 indicating that you had not received any word from them regarding bargaining.
>
> As we discussed during our telephone conversation it is agreed that our discussion regarding the various recent NLRB proceedings and the possibility of Hatch Construction Company signing a short-form agreement puts you on notice that the Teamsters are the collective bargaining representatives of Hatch Construction Company drivers and are prepared to bargain with Hatch regarding a collective bargaining agreement.
>
> Furthermore, during our conversation, I informed you that the key Teamsters' representative regarding Hatch negotiations was out of town this week. Also, you indicated that your only concern is that someone contact you in the near future regarding collective bargaining with the Teamsters.
>
> We also agreed during our telephone conversation that there had been no waiver of any kind regarding collective bargaining.
>
> Thank you for your cooperation in clearing up any confusion which may have existed.

Introduced into evidence as General Counsel's Exhibit 9(a) was a copy of a letter dated May 16, 1980, from Bischof to the Charging Party Teamsters. In pertinent part, it states:

> Please find enclosed the employer's original proposal for a successor labor agreement effective June 1, 1980.
>
> We have had numerous indications that it is the union's intent to compel the employer to sign AGC "short form" and "compliance" agreements. If this is not true, we will expect to receive written union proposals no later than May 20th with negotiations to commence May 21st. If not, we have no alternative other than to assume that you expect full compliance with the AGC-short form and compliance agreements.

Introduced into evidence as General Counsel's Exhibit 10 was a copy of a letter dated May 30, 1980, from Hays to Bischof. That letter was prepared during the morning of May 30, 1980, and prior to the time that Bischof telephoned Hays that afternoon. In pertinent part, it states:

> Joint Council of Teamsters No. 37 has received your proposal of May 16, 1980. Your letter was received on May 19, 1980. I note in your letter that you expected to receive a Union proposal no later than May 20th with negotiations to commence no later than May 21st as a result of your letter. As a result of your limited time guidelines, we have been attempting to telephone you regarding negotiations since receipt of your letter. We have had no luck contacting you by telephone. Please write or telephone me at your earliest convenience to discuss dates for negotiations.

G. *The Events Pertaining to the Respondent and the Laborers*

As indicated previously, certain findings of fact in earlier sections should also be considered with regard to the events pertaining to the Respondent and the Laborers.

Introduced into evidence as Respondent's Exhibit 2 was a copy of a letter dated March 4, 1980, from Vermeer to Bischof. Vermeer acknowledged the receipt of the Respondent's letter of termination of the contract, which letter was dated February 27, 1980. Respondent's Exhibit 3 was a copy of another letter from Vermeer to Bischof at another address. That letter is dated March 6, 1980, and in addition to acknowledging receipt of Re-

spondent's letter, Vermeer stated, "We will be in touch with you in the near future regarding negotiation of a new agreement."

General Counsel's Exhibit 6 was a copy of still another letter from Vermeer to Bischof. It is dated April 21, 1980, and it is in reply to General Counsel's Exhibit 5(c), which has been previously referred to. In part, Vermeer stated, "Your request for bargaining is premature in view of the binding representation proceedings. Upon conclusion of the representation election, we shall be glad to negotiate with you at the appropriate time."

On May 12, 1980, Bischof telephoned Vermeer, who advised him that John Abbott would be handling the matter for the Laborers. Bischof asked for, and received, Abbott's home telephone number. Bischof also gave his own home telephone number to Vermeer. Bischof testified, "I was very upset when I got hold of Mr. Vermeer the first time." Bischof said that he asked Vermeer why there had been no response from the Laborers to Bischof's previous two letters. Bischof emphasized that the Respondent did not intend to sign a short-form agreement with the Union. Bischof pointed out that the Respondent had hired him to negotiate agreements which would speak to the problems which the Respondent had.

On May 13, 1980, Bischof was successful in contacting Abbott by telephone at his home. Bischof testified, "I spoke with John, very amicably, on the phone—and we established a meeting date of May 21." Bischof told Abbott about the problems which the Respondent was having, and, in particular, about some jurisdictional disputes. Bischof told him that ". . . we did not want to sign the short form. We want to negotiate." Bischof asked Abbott to send him a copy of the Laborers' contract proposal prior to their meeting scheduled for May 21, 1980, so that both sides could examine each other's proposals. Abbott said that he was not in a position to mail a copy of a contract proposal to Bischof. According to Bischof, Abbott explained, "We're engaged in A.G.C. negotiations, but I will meet with you on the 21st."

On May 16, 1980, Bischof mailed a copy of the Respondent's contract proposal to Abbott. (See the cover letter introduced into evidence as G.C. Exh. 9(b).)

On May 21, 1980, Bischof and Johnston waited for Abbott to appear for their scheduled meeting, but Abbott did not show up on that day. However, later that afternoon Abbott telephoned Bischof, and he explained that he had gotten tied up and could not make the meeting that day. They then agreed to meet on May 23, 1980, at Bischof's law office in Sunriver, Oregon.

On May 23, 1980, Abbott met at 10 a.m. with Bischof, Hatch, Johnston, and Foreman Rod Welch. Abbott informed the Respondent's representatives that he had read the Respondent's contract proposal, but he did not have a contract proposal to present from the Union. The parties discussed the Respondent's contract proposal, but the majority of the time spent at that meeting pertained to the problems which Hatch and Welch related about the Laborers' dispatching and Dutch Van Cleve's shutting down jobs. Bischof also testified, "We indicated we were working on what we felt was a May 31 deadline. I also indicated, to John, the problems I'd had with the union and prior clients once the contract expires. And I said we are prepared to meet anytime between now and the contract expiration to work this thing out." At the end of the meeting, Bischof suggested that another meeting be scheduled, but Abbott said that he was not in a position to schedule another meeting at that time. However, Abbott said that he would contact Bischof, and that he would consider the things which Hatch and Welch had told him about at that meeting, as well as the Respondent's contract proposal.

On June 5, 1980, Bischof received a telephone message that Abbott had called and said he was going on a vacation for 3 weeks. The message said that Vermeer would be handling the negotiations from that point forward.

On June 13, 1980, Bischof had a telephone conversation with Vermeer. Bischof testified:

> Basically, I was concerned again—and I asked Vermeer again, why'd you pull John Abbott off our negotiations? He said, well, I never really assigned John to those negotiations, but he was going to Sunriver for a convention. So I thought we'd have him come by. So Neil and I went around a little bit, and I was very upset about this whole program.
>
> Basically, I went through and I said, Neil, we've laid out—for almost an hour—some problems we were having with Dutch Van Cleve, and various numbers of your dispatchers—the jurisdictional things. We thought we had something going on this.
>
> Neil said—well, the thrust of the conference was—Neil said, we're not prepared to do anything but sign an interim short form agreement with you. And I said, Neil, are you saying, then, that you won't come down and try to work out some of these things that John Abbott indicated he'd work out with us?
>
> Neil said, I'm not going to sign anything but an interim short form, binding you to the A.G.C. contract. I said to Vermeer, I said, if that's your position—we've never received anything from you people in writing yet—here it was June 14, or the 13th—we had received nothing in terms of the contract proposal from the Laborers.
>
> I said, I want something to take back to my client. If it's a short form—if that's your bottom line—if that's what you're going to insist on—I said, then, set it up as a proposal, so we can make a decision as to what we're going to do. But I said, all my letters and all my phone calls, obviously—we've indicated from day one—we're not going to sign a short form.
>
> Also, twice during that conversation, Vermeer made some threats with respect to a strike. He said, you know, we can shut you down. You're working without a contract. You know, you ought to sign that for some protection. I said, you're right, Neil, you can shut us down; you've done it to me before, and I'm aware of that.
>
> But I'd at least like to have something in my possession, to take back and show my client. That for four months I've been trying to get you guys, to the table, and I don't even have anything in writing yet.

So, with that phone call, that was it. He said, well, it's the short form, or nothing. It came in the mail two days later, and on his letter—which is in evidence—it said, pursuant to my request,—trying to indicate that I requested the short form.

Introduced into evidence as General Counsel's Exhibit 11 was a copy of a letter dated June 13, 1980, from Vermeer to Bischof. In pertinent part, the letter stated:

> Enclosed are several blank Laborers Compliance Agreements per your request during our phone conversation today.
>
> If you have any questions, please do not hesitate to contact me.

A memo prepared by Bischof of his telephone conversation with Vermeer on June 13, 1980, was introduced into evidence as Respondent's Exhibit 24.

H. *The Respondent's Decision on June 19, 1980, and the Action Taken on June 23, 1980*

Following the meeting on Thursday, June 19, 1980, among Ridderbusch, Bischof, and Johnston at the Respondent's office, Hatch made the decision to implement the Respondent's offers to the Unions.

On Monday, June 23, 1980, Bischof mailed letters to each one of the three Charging Party Unions. (See G.C. Exhs. 12(a), (b), and (c).) Most of the wording in the letters is the same, but there are some differences especially in the third paragraph of each letter. The letter to the Operating Engineers was introduced into evidence as General Counsel's Exhibit 12(a). In pertinent part, it states:

> As you are aware, this office made numerous and diligent attempts to negotiate a successor labor agreement with your union on behalf of R. A. Hatch Company prior to the expiration date of May 31, 1980. In fact, you received certified letters dated January 15, 1980; February 27, 1980; April 11, 1980 and May 12, 1980 relating to bargaining for a successor contract.
>
> Our letter to you dated April 11, 1980 stated in part:
>
> > Inasmuch as we have heard nothing from you with respect to commencing negotiations for a successor agreement, this letter shall serve as the employer's formal request to commence negotiations as soon as possible for a successor agreement. On behalf of the employer, I am prepared to meet with your authorized bargaining representative in Bend, Oregon, during the week of April 21, April 28, May 5, and May 12. It is our intent to spend whatever time is necessary to conclude these negotiations prior to the expiration of the existing contract.
>
> Despite our April 11th letter setting out the above dates as well as a plea to conclude negotiations prior to May 31, we received absolutely no response from you. As a last resort, we sent a letter on May 12th which resulted in a meeting wherein we were informed that your negotiators would not be available until after July 19th at which time it was hoped Local 701 had ratified its agreement with the Associated General Contractors.
>
> It has been obvious from your conduct that International Union of Operating Engineers, Local 701 never intended to negotiate a separate agreement with R. A. Hatch Company despite the employer's timely withdrawal from the Associated General Contractors as bargaining agent.
>
> Neither the National Labor Relations Board nor the Courts have ever required an employer to idly stand by beyond the expiration date of a contract while the union refused to meet with the employer.
>
> Accordingly, the Company has implemented its offer submitted to you prior to the expiration of the old agreement.

The third paragraph of General Counsel's Exhibit 12(b), which was addressed to the Teamsters, states:

> Despite our April 11th letter setting out the above dates as well as a plea to conclude negotiations prior to May 31, we received absolutely no response from you. As a last resort, we sent a letter on May 12 which still failed to produce any negotiations.

The third paragraph of General Counsel's Exhibit 12(c), which was addressed to the Laborers, states:

> Despite our April 11th letter setting out the above dates as well as a plea to conclude negotiations prior to May 31, we received absolutely no response from you. As a last resort, we sent a letter on May 12th which resulted in a meeting wherein we were informed that your union was still bargaining with the Associated General Contractors. This meeting resulted in your asking R. A. Hatch Company to sign another compliance or short form agreement binding us to your A.G.C. agreements.

I. *The Events Subsequent to June 23, 1980*

On June 24, 1980, a letter was sent from Hatch to his employees. A copy of that letter was introduced into evidence as General Counsel's Exhibit 14. A copy of that document is attached hereto as Appendix A.

Introduced into evidence as General Counsel's Exhibit 13 was a copy of a letter dated June 24, 1980, from Vermeer to Bischof. In pertinent part, it states:

> It has come to our attention that R. A. Hatch has unilaterally made a decision to put the fringe benefits on the mens' paychecks and pay directly to them.
>
> We have never refused to meet and bargain with you and this is an unfair labor practice.
>
> Please reply immediately.

As of June 23, 1980, the A.G.C. negotiations had not been completed with the three Charging Parties to this proceeding. The Operating Engineers and the A.G.C. concluded their negotiations on or about July 21, 1980. The agreed-upon contract was ratified by the union membership on or about September 24, 1980.

On or about July 21, 1980, the Laborers ratified the A.G.C. master contract to which those parties had tentatively agreed about 1 week earlier. After the ratification of that new contract, the Laborers mailed out a form letter to employers who did not have a contract with the Union. See Respondent's Exhibit 4 which had a blank "Laborers Compliance Agreement" attached to it. Among other things, the letter stated, "We will have to notify the Administrator of our Trust Funds not to accept contributions on Health & Welfare and Pension on behalf of your employees unless we have a new agreement with you."

The contract between the Teamsters and the A.G.C. was ratified by the union membership on August 6, 1980. Subsequently in November 1980, Hatch met informally with Bill Diltz and LaChapelle. Hatch testified:

> The conversation was very informal, it was very friendly, I've been friends with these people for a long time. I indicated to them and they indicated to me that we're sorry that we parted company. Bill Diltz said, I guess we blew it, and I said well, I'm sorry that we could never get together with you. At that time he indicated that they were busy with the A. G. C. negotiations and that they weren't [in] any position to talk to us. He said that I hope we can get together in the future, and I said I feel the same way. The unions were something we felt that it did us some good, too.

The Respondent has not withdrawn recognition from any one of the three Charging Party Unions.

J. *Conclusions*

In its decision in *Taft Broadcasting Co., WDAF AM-FM TV*, 163 NLRB 475, 478 (1967), the Board has described a bargaining impasse as follows:

> Whether a bargaining impasse exists is a matter of judgment. The bargaining history, the good faith of the parties in negotiations, the length of the negotiations, the importance of the issue or issues as to which there is disagreement, the contemporaneous understanding of the parties as to the state of negotiations are all relevant factors to be considered in deciding whether an impasse in bargaining existed.

In enforcing the Board's Order in *Taft Broadcasting*, the United States Court of Appeals for the District of Columbia stated:

> It is indeed a fundamental tenet of the act that even parties who seem to be in implacable conflict may, by meeting and discussion, forge first small links and then strong bonds of agreement. But some bargaining may go on even in the presence of deadlock. Here the continued meetings and occasional progress—facts by no means immaterial—were overborne in the Board's view by the conceded impasse on the critical issues of staff assignment on which the progress had been "imperceptible" and, indeed, had led in some aspects, each party claimed, to a widening of the gulf between them. As we see it, the Board's finding of impasse reflects its conclusion that there was no realistic possibility that continuation of discussion at that time would have been fruitful. The Board was justified on the record in concluding that, as of December 4, the prospects of reaching an agreement had been exhausted, and the Company had discharged its statutory obligation to conduct full and fair discussions with the Union. [Footnotes omitted.]

The court's opinion is reported in *American Federation of Television and Radio Artists, AFL-CIO, Kansas City Local* v. *N.L.R.B.*, 395 F.2d 622, 628-629 (1968).

Further guidance regarding the definition of an impasse was given by the Board in its decision in *Hi-Way Billboards, Inc.*, 206 NLRB 22, 23 (1973):

> A genuine impasse in negotiations is synonymous with a deadlock:[15] the parties have discussed a subject or subjects in good faith, and, despite their best efforts to achieve agreement with respect to such, neither party is willing to move from its respective position. When such a deadlock is reached between the parties, the duty to bargain about the subject matter of the impasse merely becomes dormant until changed circumstances indicate that an agreement may be possible.[16] Once a genuine impasse is reached, the parties can concurrently exert economic pressure on each other: the union can call for a strike;[17] the employer can engage in a lockout,[18] make unilateral changes in working conditions if they are consistent with the offers the union has rejected,[19] or hire replacements to counter the loss of striking employees.[20] Such economic pressure usually breaks the stalemate between the parties, changes the circumstances of the bargaining atmosphere, and revives the parties' duty to bargain.
>
> Thus, a genuine impasse is akin to a hiatus in negotiations. In the overall ongoing process of collective bargaining, it is merely a point at which the parties cease to negotiate and often resort to forms of economic persuasion to establish the primacy of their negotiating position. Moreover, the occurrence of a genuine impasse cannot be said to be an unexpected, unforeseen, or unusual event in the process of negotiations since no experienced negotiator arrives at the bargaining table with absolute confidence that all of his proposals will be readily and completely accepted. Therefore, it is clear that an impasse is but one thread in the complex tapestry of collective bargaining, rather than a bolt of a differ-

ent hue. In short, a genuine impasse is not the end of collective bargaining.

[15] *Newspaper Drivers & Handlers' Local Union No. 372, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Ind. [Detroit Newspaper Publishers Association]* v. *N.L.R.B.*, 404 F.2d 1159 (C.A. 6, 1968), cert. denied 395 U.S. 923 (1969).

[16] *Transport Company of Texas*, 175 NLRB 763, 768, enfd. 438 F.2d 258 (C.A. 5, 1971).

[17] *N.L.R.B.* v. *Erie Resistor Corp.*, 373 U.S. 221, 223 (1963).

[18] *N.L.R.B.* v. *Truck Drivers Local Union No. 449, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL [Buffalo Linen Supply Co.]*, 353 U.S. 87 (1957); *N.L.R.B.* v. *Brown, et al. d/b/a Brown Food Stores*, 380 U.S. 278 (1965); *American Ship Building Company* v. *N.L.R.B.*, 380 U.S. 300 (1965).

[19] *Eddie's Chop House, Inc.*, 165 NLRB 861.

[20] *N.L.R.B.* v. *Mckay Radio & Telegraph Co.*, 304 U.S. 333 (1938); *N.L.R.B.* v. *Pecheur Lozenge Co.*, Inc., 209 F.2d 393 (C.A. 2, 1953), cert. denied 347 U.S. 953.

The foregoing Board and court decisions are helpful in analyzing the particular facts in this case in order to determine whether an impasse in negotiations existed between the Respondent and any one of the three Charging Parties as of June 23, 1980.

Without repeating the findings of fact set forth in earlier sections, I conclude from those facts that the Respondent maintained a firm and adamant position that the Respondent was not going to sign a "short form" agreement, which would bind the Respondent to the terms and conditions of master agreements negotiated by the A.G.C. and the Charging Parties. The written and verbal communications from the Respondent to the Charging Parties clearly and repeatedly made known the Respondent's firm position against signing a short-form agreement. That position signaled to the Unions a change in the Respondent's past collective-bargaining history with the Unions. Thus, this was not simply a situation where the Respondent had withdrawn its membership in the A.G.C. Instead, this was a situation where the Respondent at the outset made known to the Unions its desire to negotiate individually for separate collective-bargaining agreements with terms and conditions, which the Respondent believed would ameliorate the problems that the Respondent had encountered. In these circumstances, I conclude that negotiating individual contracts was an issue which the Respondent perceived to be of importance, and an issue on which the Respondent was adamant.

The Respondent also expressed, both in writing and verbally, its sense of urgency about the contract negotiations, and its desire to conclude new collective-bargaining agreements prior to the expiration of the then-existing agreements. That also was a firm position which the Respondent indicated was "imperative" from its viewpoint. In these circumstances, I conclude that promptness in negotiating new collective-bargaining agreements with the Unions was an issue of importance to the Respondent, and an issue on which the Respondent was adamant.

The Respondent initially set aside several weeks for negotiations with the Charging Parties, and later the Respondent also sought to have bargaining sessions on other dates. The Respondent met with union representatives on the three occasions that face-to-face negotiations took place, and the Respondent submitted written and complete contract proposals to all three of the Charging Parties. While the length of time of the actual negotiations was relatively short, I conclude that the Respondent made known to the Unions its availability to meet and its desire to meet and bargain with the Unions' negotiators.

In contrast to the positions taken by the Respondent, the written and verbal communications from the three Charging Parties evidenced a desire to have the Respondent sign short-form agreements. Their actions also indicated that the Unions did not share the Respondent's sense of urgency about negotiations with the Respondent. The position taken by the Charging Party Laborers was the most clearly expressed and the most firm position of the three Charging Parties. According to Bischof, Vermeer told him on June 13, 1980, ". . . I'm not going to sign anything but an interim short form, binding you to the A.G.C. contract." Once again, according to Bischof, the Laborers' representative told him in the same telephone conversation, ". . . it's the short form or nothing." (See sec. G herein.)

The Operating Engineers' position regarding a short-form agreement was not stated as an "ultimatum," according to Bischof, but it seems clear that the Operating Engineers also maintained consistently their bargaining position in favor of the Respondent's signing a short-form agreement. (See sec. E herein.)

With regard to the Respondent and the Laborers and the Operating Engineers, I conclude that the facts show that those parties had reached an impasse in their negotiations over the signing of a short-form agreement, and that the Respondent was free to implement its contract proposals.

There were never any actual contract negotiations between the Respondent and the Teamsters, even though the Respondent had sought such meetings and had mailed a written contract proposal to that Union. In that sense, the Respondent gave notice to the Teamsters of its contract proposals; gave the Teamsters an opportunity on several occasions to bargain, but the Teamsters did not avail themselves of those opportunities. Diltz made a realistic assessment of the situation when he commented, with candor, to Hatch in November 1980, ". . . I guess we blew it . . . ." (See sec. I herein.) Instead of an impasse in negotiations with the Teamsters, I conclude that the facts show that there were no contract negotiations, and that the Respondent was free in these circumstances to implement its contract proposals: (1) after the Respondent gave notice to the Teamsters of its proposals, and (2) after the Respondent afforded the Teamsters opportunities to bargain about those proposals.

After considering the foregoing and the arguments advanced by the attorneys for all of the parties, I further conclude that a preponderance of the evidence does not support the allegations of the General Counsel's consolidated complaint, which alleges that the Respondent violated Section 8(a)(1) and (5) of the Act. Accordingly, I must recommend to the Board that the General Counsel's consolidated complaint be dismissed.

CONCLUSIONS OF LAW

1. The Respondent is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. The Charging Parties are labor organizations within the meaning of Section 2(5) of the Act.

3. The Respondent has not engaged in the unfair labor practices alleged in the General Counsel's consolidated complaint in this proceeding for the reasons which have been set forth above.

Upon the basis of the foregoing findings of fact, conclusions of law, and the entire record in this proceeding, and pursuant to the provisions of Section 10(c) of the Act, I hereby issue the following recommended:

ORDER[1]

It is hereby ordered that the complaint in this proceeding be dismissed in its entirety.

[1] In the event that no exceptions are filed, as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order herein shall, as provided in Sec. 102.48 of the Board's Rules and Regulations, be adopted by the Board and shall become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.

APPENDIX A

R. A. HATCH CO.
GENERAL CONTRACTORS
POST OFFICE BOX 201
BEND, OREGON 97701
(503) 382-8418

June 24, 1980

Dear Employee:

As you are aware, all labor agreements between the Company and the various construction trade unions expired May 31, 1980. Since that time, you have asked, it is important that you be informed of the following facts.

Last year, the Company made a decision that it was withdrawing its membership from the Associated General Contractors and would negotiate with the various unions on an individual basis for new contracts to begin on June 1, 1980. In the past, the unions would ask us to sign a "short form" for "compliance" agreement binding us to the master labor contracts negotiated in Portland between A.G.C. and the various unions; however, I felt it was important for the economic well-being of the Company to negotiate individual contracts with the unions which would address specific working conditions and problems unique to R. A. Hatch Co. and our employees.

Despite numerous requests by our attorneys asking the various unions to come to the bargaining table, none of the unions were willing to negotiate individual agreements with us prior to May 31st. In fact, our attorneys sent several certified letters to each union asking them to negotiate with the Company during the months of April and May so new agreements could be reached prior to the expiration of the old agreements on May 31st. The Laborers and Operating Engineers have indicated they were interested only in having the Company sign new "compliance" agreements negotiated with A.G.C.

In view of the unions' unwillingness to negotiate new individual agreements, we are implementing the contract proposals given to the Laborers, Operators and Teamsters by us on May 15th and 16th. It is important to note that federal labor law restrict us from implementing any proposal other than what was offered the unions. In summary, the wage proposal consist of a 10% across-the-board wage increase for each employee effective June 1, 1980. In addition, the following benefits will be paid effective June 1, 1980:

BENEFITS:

Health & Welfare

The amount of $1.00-Operators; $0.78-Teamsters; $1.07-Laborers per hour worked will be paid to the employee as a part of his benefits payment. The employee may choose to participate in the Company's group health and dental insurance coverage, which is presently provided by OPS-Blue Shield (Group No. 39745-00). Premium payment will be either direct from the employee to the Company or, with the employee's concurrence, through a payroll deduction.

Vacation

The amount of $0.50-Operators; $1.00-Teamsters; $0.80-Laborers per hour worked will be paid the employee as a part of his benefits payment.

Pension

The amount of $1.47-Operators; $1.05-Teamsters; $1.23-Laborers per hour worked will be paid the employee as a part of his benefits payment.

Training

The amount of $0.05-Operators; $0.05-Teamsters; $0.10-Laborers per hour worked will be paid the employee as a part of his benefits payment.

CIAF

The amount of $0.05 per hour worked will be paid the employee as a part of his benefits payment.

Attached to this letter are two checks reflecting the additional 10% wage increase from June 1 as well as a benefit check from June 1. I have not attached a copy of the contract proposals submitted to the unions; however, they are available for your review if you desire a copy. Also attached is a copy of the OPS-Blue Shield group health and medical plan which you and your family are eligible to enroll in. We will assist you in enrolling in this plan and an application is attached. You may use any portion of your benefit checks to pay the premiums by directly mailing them to R. A. Hatch Co. If you prefer, we will provide a payroll deduction. We recommend

you sign up for this medical plan. Incidentally, this is the same plan all Company supervisors and office staff have. I feel it is an excellent plan for you and your family and we will insure there is no break in coverage from the union trust plan to the new OPS-Blue Shield plan.

The Company will no longer enforce a union security agreement or dues deduction provision. I want to make it very clear that the Company is not anti-union in any respect. All employees who desire to remain members of the union are free to send their dues directly to the respective unions. However, the Company will no longer require employees to join or be members of a union in order to work for R. A. Hatch Co. It is an individual choice and the Company will remain totally neutral.

IF any union should call a strike, I would genuinely hope you would continue working for the Company. It is against the federal laws for any union representative to blackball, threaten or coerce you in your decision to work for the Company. The unions cannot take away any trust fund benefits to which you are presently entitled. If you are threatened or told you will be blackballed, please obtain the individual's name and immediately call the National Labor Relations Board in Portland at 221-3085. The N.L.R.B. will quickly move to stop any form of union intimidation. You may also inform your supervisor who will contact our Company attorneys for immediate action.

In conclusion, you as an employee are very valuable to the Company. Without your services, the Company's ability to operate would be impaired. Accordingly, I will do everything possible to guarantee fair treatment and benefits to you and your family. My door or that of our supervisors is always open for questions and complaint. Please feel free to contact me at any time concerning questions you might have.

Sincerely,
R. A. HATCH CO.
Bob Hatch, President